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Letter dated 9 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 5 June 2002 (S/2002/634).

The Counter-Terrorism Committee has received the attached supplementary report from Lithuania, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 27 August 2002 from the Permanent Representative of Lithuania to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to submit responses to the request of the Counter-Terrorism Committee for additional information with regard to Lithuania's report on the implementation of resolution 1373 (2001), which was submitted to the Counter-Terrorism Committee on 28 December 2001 (see enclosure).

(*Signed*) Gediminas **Šerkšnys**
Ambassador
Permanent Representative

Enclosure

Responses to the request of the Counter-Terrorism Committee for additional information with regard to Lithuania's report on the implementation of resolution 1373 (2001)*

Operative Paragraph 1
Sub-paragraph 1 (a)

The Bank of Lithuania seeking to protect the interests of depositors, and to assure the safety, trustworthiness and stability of the bank and banking system has the right to apply to banks the following sanctions:

– to ward the bank for the shortcomings and violation of their activities and set the term for their elimination;

– to impose fines on the heads of the bank administration according to the procedure prescribed by law;

– to suspend or revoke the license of a bank restricting only, several or all of its operations (moratorium);

– to suspend or revoke the license of a bank branch operation;

– to request the removal of a member (members) of the bank board or head of the bank administration and the appointment of administrator to the bank;

– to request the suspension of powers of a member (members) of the bank council;
to suspend the powers of the bank council, remove from office the board of the bank, the head of the bank administration and appoint a bank administrator and, if so required, appoint deputy administrators;

– to limit access and use of the accounts held in the Bank of Lithuania;
to revoke a bank license.

The type of sanctions is selected by the Bank of Lithuania taking into consideration the nature of the violation on the grounds whereof the sanction is imposed, and the effect that the violation and the imposed sanction shall have on the safety, stability and trustworthiness of the bank and the banking system.

Article 172-4 of the Code of Administrative Offences of the Republic of Lithuania stipulates that provision of false information or failure to provide to the Bank of Lithuania the necessary information or documents needed for the establishment of the financial and economic state of a bank or economic entity or for examining of banking operations being carried out, also violation of the Law of the Republic of Lithuania, other legal acts and legal acts of the Bank of Lithuania regulating the credit activity is punishable by a fine from ten thousand to fifty thousand Litas (LTL) (1 USD is approx. 3.5 Litas).

Under the Law on the Prevention of Money Laundering, credit and financial institutions, also notaries public and customs authorities must: establish the identity of their customers while opening accounts or entering into other business relations; report information on the identity of customers to the Financial Crime Investigation Service (FCIS) under the Ministry of Interior; report information about suspicious cash transactions that might be related to criminal activity (including terrorism); report information about cash transactions in excess of LTL 50,000 or the respective amount in foreign currency; report information about operations in currency exchange in

* The annexes are on file with the Secretariat and are available for consultation.

cases where the amount of cash exchange is in excess of LTL 20,000, or the respective amount in foreign currency, about transactions in excess of LTL 50,000, or the respective amount in foreign currency; report information about cases of legal or natural persons bringing or taking out across the state border single sums of cash in excess of LTL 50,000, or the respective amounts in foreign currency.

Under Article 17214 of the Code of Administrative Offences, violations of the order in which measures to prevent money laundering are implemented (including failure to report information on cash transactions) are punishable by a fine. In cases when a person fails, without a reasonable ground, to inform, in shortest time possible, the law enforcement institutions of a known act of terrorism being prepared, being committed or having been committed, he/she is punishable under Article 294 of the Criminal Code, "Failure to Report a Crime", by imprisonment for a term of up to two years and a fine, or by a fine.

The Bank of Lithuania has no information about the existence of informal banking networks in the Republic of Lithuania. Under Article 3 of the Law on Commercial Banks it is prohibited to engage in banking activities without a license of the Bank of Lithuania. Article 42 of the Law on the Bank of Lithuania stipulates that a credit institution is bank, another legal person or a subdivision of a foreign credit institution whose activities on the basis of legal acts are regarded as activities of credit institutions, and which hold a license or permission issued by the Bank of Lithuania to engage in certain operations provided for in laws. Article 43 of the above Law provides that it is prohibited to engage in the activities of credit institutions without a license or permission of the Bank of Lithuania. The terms and procedure for the issue of licenses and permissions are established by the laws that regulate the establishment and activities of credit institutions and other laws of the Republic of Lithuania, as well as legal acts issued by the Bank of Lithuania.

Article 306 of the Criminal Code establishes criminal liability for engagement in large scale commercial, economic, financial or professional activities without establishing an undertaking or in some other illegal way, or without a license (permit) to engage in such activities. Such acts are punishable by imprisonment for a term of up to two years and a fine, or by a fine.

Amendments have been drafted to the Resolution of the Government of the Republic of Lithuania and the Board of the Bank of Lithuania No 1381/9 "On Approving the Criteria for Determining whether the Monetary Operation is Suspicious" of 11 December 1997. The aim of the amendments is to expand the list of criteria on the basis of which credit and financial institutions must treat cash transactions as suspicious and immediately report such information to FCIS under the Ministry of Interior. One of these criteria is directly related to the prevention of the financing of terrorism and runs as follows: "whether customer identification data of customers and customers' agents (in cases where a cash transaction is carried out through an agent) or beneficiaries of transactions comply with the data provided in the lists communicated by law enforcement institutions of foreign countries or international organizations.

Sub-paragraph 1 (b)

On 4 July 2002 the Seimas of the Republic of Lithuania (Lithuanian Parliament) adopted Law No IX-1036 which amended Articles 226(1) and 227(3) of the Criminal Code. The amendments entered into force on 19 July 2002.

Article 226(1) of the CC. Falsely Reporting an Impending Threat to the Public or an Occurrence of such a Threat

A false report by means of telephone, radio or any other means of news about a danger threatening the public or a major disaster, thereby causing an unnecessary callout of appropriate emergency services or confusion among people, —
shall be punishable by imprisonment for a term of up to 2 years and a fine or imprisonment without a fine or by a fine.

A false report by means of telephone or radio or any other means about a danger threatening the public, thereby causing disruption of mass gatherings, or a false report about a threat to state authority or administration institutions or a strategic facility, thereby causing a disruption of their activity or a major damage to property, –
shall be punishable by imprisonment for a term of up to 4 years.

Article 227(3) of the CC. An Act of Terrorism

Planting of explosives with the aim of causing an explosion, bombing or arson, where carried out in a dwelling, a working place, a place of public gatherings or a public place, –
shall be punishable by imprisonment for a term of up to 10 years.

The same act, where it causes bodily harm to the victim, or destruction or damage to a means of transport, or a building or equipment therein, –
shall be punishable by imprisonment for a term from 3 to 12 years.

An explosion, arson or any other destruction of or damage to a building or facility, where it causes danger to the life and health of a great number of people, or dissemination of biological, radioactive or chemical noxious substances, preparations or micro-organisms, —
shall be punishable by imprisonment for a term from 5 to 15 years.

Acts specified in paragraph 3 of this Article, where they are committed against a strategic facility or lead to grave consequences, —
shall be punishable by imprisonment for a term from 10 to 20 years or life imprisonment.

Creation of or participation in a terrorist group consisting of three or more persons for the commission of a terrorist act, also the financing of such a group or the provision of any other support to it —
shall be punishable by imprisonment for a term from 4 to 10 years.

No amendments have been made to Article 250 of the new Criminal Code (not yet in force).

Sub-paragraph 1 (c)

The Code of Criminal Procedure of the Republic of Lithuania

Article 194(1). Provisional restraint of property ownership rights

To ensure a civil claim, possible forfeiture of property, the payment of a fine, on the basis of materials gathered during an examination or of evidence in the criminal case and with sufficient grounds to suspect that the person has acquired the property in criminal manner and that he might squander, conceal or alienate the property or the rights to it, the investigator, the interrogator or the prosecutor shall have the right to provisionally restrain this person's ownership rights to this property by a reasoned decision sanctioned by the Prosecutor General of the Republic of Lithuania or his Deputies, or by the chief prosecutors of regions or districts or their deputies.

The decision to provisionally restrain the property ownership rights shall be notified to the person whose ownership rights have been restrained and shall be entered in the Register of Sequestrated Property in the same manner as a decision on property sequestration.

Where property ownership rights are restrained on the basis of materials gathered during an examination, criminal proceedings must be instituted within fifteen days of the moment the decision on the provisional restraint of ownership rights was made. If an audit of documents is ordered during the investigation, criminal proceedings must be instituted within fifteen days of the delivery of the results of the audit. If criminal proceedings are not instituted within that period of time, the provisional restraint of property ownership rights shall be rescinded.

The property subject to provisional restraint of ownership rights shall be listed in accordance with the provisions set out in paragraph 3 of Article 195 and Articles 197 and 198 of this Code and shall be taken over to be controlled by the investigator, the interrogator or the prosecutor.

Where provisional restraint of ownership rights is effected with regard to assets held in accounts of banks and other credit institutions, the persons whose ownership rights have been provisionally restrained shall have the right to perform only those transactions with the said assets that have been stipulated in the restraint decision.

If provisional restraint of ownership rights is deemed no longer necessary, if no criminal proceedings are instituted or if, in all these cases, the restraint exceeds the period of six months, it shall be rescinded on a decision by the investigator, the interrogator or the prosecutor.

Persons whose property ownership rights have been provisionally restrained shall have the right to appeal against the decision to a superior prosecutor within five days of the receipt of the copy of the decision, and the right to appeal against the decision of the superior prosecutor to the court within ten days of its receipt.

Article 194(2). Provisional restraint of property rights of persons suspected of possessing property acquired in a criminal manner

To ensure the forfeiture of property, on the basis of materials gathered during an examination or of evidence in the criminal case and with sufficient grounds to suspect that a natural or legal person has received from another natural or legal person property acquired in a criminal manner, which is subject to forfeiture under Article 35 of the Criminal Code of the Republic of Lithuania, and might squander, conceal this property or transfer this property or rights to it to a third person, the investigator, the interrogator and the prosecutor shall have the right to provisionally restrain such a person's property ownership rights to this property by a reasoned decision sanctioned by the Prosecutor General of the Republic of Lithuania or his Deputies, or by the chief prosecutors of regions or districts or their deputies.

The decision to provisionally restrain the property ownership rights shall be notified to the person whose ownership rights have been restrained and shall be entered in the Register of Sequestrated Property in the same manner as a decision on property sequestration.

Where property ownership rights are restrained on the basis of materials gathered during an examination, criminal proceedings must be instituted within fifteen days of the moment the decision on the provisional restraint of ownership rights was made. If an audit of documents is ordered during the investigation, criminal proceedings must be instituted within fifteen days of the delivery of the results of the audit. If criminal proceedings are not instituted within that period of time, the provisional restraint of property ownership rights shall be rescinded.

The property subject to provisional restraint of ownership rights shall be listed in accordance with the provisions set out in paragraph 3 of Article 195 and Articles 197 and 198 of this Code and shall be taken over to be controlled by the investigator, the interrogator or the prosecutor.

Where provisional restraint of ownership rights is effected with regard to assets held in accounts of banks and other credit institutions, the natural and legal persons shall have the right to perform only those transactions with the said assets that have been stipulated in the restraint decision.

If provisional restraint of ownership rights is deemed no longer necessary, if no criminal proceedings are instituted or if, in all these cases, the restraint exceeds the period of six months, it shall be rescinded on a decision by the investigator, the interrogator or the prosecutor.

Persons whose property ownership rights have been provisionally restrained shall have the right to appeal against the decision to a superior prosecutor within five days of the receipt of the copy of the decision, and the right to appeal against the decision of the superior prosecutor to the court within ten days of its receipt.

Article 195. Sequestration of property

To secure a civil claim, as well as possible confiscation of property, the investigator must sequestrate the property of the suspect, the accused or the natural person who is materially responsible under the law for the actions of the former, as well as the property of other persons who hold the property received or acquired in a criminal manner. The property may be sequestrated either together with seizure or search or separately. Property of the natural person may be sequestrated:

1) to secure possible confiscation of property in the cases provided for by Article 35 of the Criminal Code;

2) to secure a civil claim when there are substantial grounds to prosecute a legal person as civil party in the criminal proceedings.

The property sequestration shall be effected upon a reasoned decision in accordance with the regulations set out in Article 195(2). The property subject to sequestration shall be listed in accordance with the provisions set out in Articles 189, 191, 197 and 198 of this Code.

Items that are indispensable for the suspect, the accused, members of their families and dependants and that are listed in a list drawn up in accordance with the laws of the Republic of Lithuania shall not be subject to sequestration.

The official making a sequestration order must take measures to prevent damage being done to the property as a result of its sequestration, and to resolve the question of safekeeping, administration and use of the property sequestrated.

In cases where the property is sequestrated with full restriction of ownership rights (by prohibiting disposing, using or administering it), the property subject to sequestration is taken from its owner. The sequestered property may be passed over for safekeeping to state institutions, municipal institutions, housing maintenance organizations or to another person after obtaining their signature as to notification of their responsibility for embezzlement, transfer or concealment of the said property. In cases where the property subject to sequestration is owned by joint ownership right, only the share of the property of the person, against whom restriction of ownership rights has been imposed, may be sequestrated. If his share in joint ownership is not determined, all property may be temporarily sequestrated until the share of that person in joint ownership is determined.

Upon sequestration of a deposit held in a bank or another credit institution, a person whose deposit is sequestrated shall be prohibited from disposing of the deposit the amount of which is specified in the order.

In cases where goods, raw materials, semi-manufactures and ready for use products in circulation are subject to sequestration, the person managing the property shall have the right to change its composition and form, provided its total value does not decrease, unless the order specifies otherwise.

Property sequestration is rescinded upon the decision of the investigator if the said measure becomes unnecessary.

Sub-paragraph 1 (d)

The FCIS under the Ministry of Interior carries out an analysis of cash transactions. The main attention is focussed on determining whether natural and legal persons conducting these transactions are not linked to criminal activities, whether the nature and amount of a cash transaction are in line with these persons regular type of activity and its scale. Upon establishing that a cash transaction is suspicious or that the person conducting it

has previous convictions or is subject of an ongoing investigation, or that the nature and scale of the transaction does not comply with the regular, publicly disclosed activity of the person, taking into consideration the possibility of a primary offence, passes on all the collected information to a relevant law enforcement institution for further investigation.

After the adoption of the Government's Resolution No 1281 of 31 October 2001 "On Measures for the Implementation of Resolutions of the United Nations Security Council", the Division on the Prevention of Money Laundering of the FCIS under the Ministry of Interior started searching for suspicious financial transactions that might be linked to the funding of terrorist activities. In several stages, requests for the screening of 374 natural persons and 57 undertakings and organizations linked to terrorist activities have been received from financial intelligence units of foreign countries. A search in the data base of the Division was carried out and inquiries were sent to all the banks with the aim of establishing if the above persons were customers of credit and financial institutions and if they were not engaged in financial transactions with customers of other credit and financial institutions operating in the Republic of Lithuania. Officers of credit and financial institutions responsible for the implementation of money laundering prevention measures were instructed to carry out checks with relation to the customers and transactions in question and to treat all future transactions related to the listed persons as suspicious, and, in accordance with Article 8 of the Law on the Prevention of Money Laundering, "Suspicious Monetary Transactions", to inform the FCIS under the Ministry of Interior about them without delay.

Sub-paragraph 2 (a)

The Law on the Fight against Terrorism is in the drafting stage.

On 15 January 2002 the Seimas of the Republic of Lithuania adopted a new Law on the Control of Arms and Ammunition (Official Journal No. 13-467, 2000) which will come into force on 1 July 2003.

The new law consists of 15 chapters and 50 articles. Chapter 1 („General Provisions") sets out the definitions used in the law and its objective and purpose.

Chapter 2 of the law presents a detailed classification of arms and ammunition. Arms are classified into 4 categories according to the degree of their dangerousness: A, B, C, D, category A arms and ammunition being the most dangerous and category D – the least dangerous.

Chapter 3 defines prohibited arms and ammunition.

Chapter 4 establishes that data about arms registered, their owners and managers is to be submitted to the State Arms Register and regulates the accounting of arms in departmental arms registers and of arms in the civil circulation.

Chapter 5 regulates the acquisition and possession of arms and ammunition, defines the subject to the right of ownership of arms and ammunition, his right to acquire and keep arms and ammunition, stipulates the requirements for the issuance of permits; also establishes the requirements for acquiring and keeping of certain categories and types of arms and ammunition by permanent residents of the Republic of Lithuania and legal persons registered in the Republic of Lithuania; regulates the right of foreigners to acquire and keep arms and ammunition, also establishes requirements for foreigners in acquiring certain categories of arms; defines persons who can be users of arms and ammunition; establishes cases when the right to acquire arms and ammunition is restricted; provides a definition of a person of impeccable reputation who is granted the right to acquire arms and ammunition.

Chapter 6 deals with economic commercial activities related to arms and ammunition: establishes general requirements for economic commercial activities related to arms and ammunition; sets out restrictions of the right to carry out work related to the activities subject to licensing; establishes the duties of holders of general license;

stipulates the requirements for legal persons wishing to engage or engaged in the manufacture of arms, their major parts and ammunition; regulates the procedures of export, import and transit of arms and ammunition; trade in arms; repair of arms; modification of arms and ammunition; operation of indoor ranges and shooting ranges; hire of arms.

Chapter 7 regulates the duties of the arms owners, arms holders and users.

Chapter 8 establishes the procedure for the keeping, storing, carrying and use of arms and ammunition.

Import, export and carriage of arms and ammunition in the territory of the Republic of Lithuania are regulated in Chapter 9 of the Law.

The new law also establishes the procedure for the collection of arms and ammunition; organization of exhibitions; cancellation of permits to carry and keep arms and ammunition; seizure, inheritance, giving as a gift, sale, and destroying of arms and ammunitions.

The final provisions (Chapter 15) stipulate the institutions charged with the control of the circulation of arms and ammunition, also provide for the exchange of information with foreign states regarding the circulation of arms and ammunition; establish liability for violations of the circulation of arms and ammunition; define the cases of application of international agreements; establish the date for the law's coming into force and the list of laws that are to become invalid upon coming into force of the new law.

At the present time, until the coming into force of the new law, the basic provisions regulating the circulation of arms and ammunition in the Republic of Lithuania, establishing the legal grounds for the activity of institutions exercising state supervision of arms and ammunition, and setting out requirements to persons whose activities are related to arms and ammunition are stipulated in the Law on Arms and Ammunition adopted in 1996.

The said law stipulates that holders of the right to own and hold arms and ammunition shall be citizens of the Republic of Lithuania, natural and legal entities registered in the Republic of Lithuania. Citizens of the Republic of Lithuania can acquire, keep and carry civil arms of limited civil circulation subject to a permit, issued in accordance with procedure established by the Government, to acquire, keep and carry arms of limited civil circulation for the purposes of hunting; sports; security (self-defense and protection of property); professional activity; establishing, storing or augmenting of a collection of usable arms; also for other purposes provided they do not contradict the existing laws.

Sale, manufacture and repair of arms, also manufacture and sale of ammunition on the territory of the Republic of Lithuania are only allowed subject to a license issued in accordance with procedure established by the Government. Undertakings engaged in the import of arms must also hold a license issued by the Ministry of Interior.

Individuals can sell their legally owned arms through persons or entities that have the right to trade in arms of this type but must notify the permit issuing institution and receive its permission before doing so.

Sale of arms and ammunition to natural and legal persons who fail to produce a license to acquire the arms of the given type is prohibited; it is also illegal to sell arms that do not have a serial number and marking or ammunition without a standard conformity marking.

The Criminal Code of the Republic of Lithuania establishes liability for illegal carrying, keeping, acquisition, manufacture and sale of arms and ammunition (Article 234) and for arming criminal groups (Article 234); such acts are attributed to the category of grave offences. The Criminal Code (Article 235) also establishes liability for the illegal manufacture, with the aim of selling, for the sale, and also for the carrying of blank or silent arms (swards, daggers, bayonets, hunting knives, crossbows) or any other implements or things specifically produced or modified with the aim of taking the life or inflicting bodily injury.

Under the Law on the State Security Department and the Law on Undercover Activity, the State Security Department conducts operative activities with the aim of identifying members of terrorist organizations and preventing terrorist acts. Such persons are also subject to criminal procedural measures.

The National Anti-Terrorism Program came into force on 22 January 2002.

Sub-paragraph 2 (b)

The institution responsible for providing early warning to other states at the present time is the Lithuanian National Bureau of Interpol. An Europol bureau in Lithuania is under creation.

Sub-paragraph 2 (c)

The Migration Department under the Ministry of Interior receives information about persons who have committed, organized terrorist acts, and also helped commit and organize terrorist acts. Such individuals are entered in the list of undesirable aliens who are denied entry into the Republic of Lithuania. Under point 5 section 1 of Article 7 of the Law on the Legal Status of Aliens, an alien is refused admission to the Republic of Lithuania if he has been prohibited from entry into the Republic of Lithuania. Thus terrorists, irrespective of their nationality and the place of commission of the terrorist act, are refused admission to the Republic of Lithuania.

Under point 6, paragraph 1 of Article 21 and point 3, paragraph 1 of Article 24 of the Law on the Legal Status of Aliens, a temporary residence permit is rescinded if, after committing a crime punishable by imprisonment, the alien has served the sentence or has been released on parole in the Republic of Lithuania. Thus residence permits for terrorists, irrespective of their nationality and the place of commission of the terrorist act, are rescinded.

Sub-paragraph 2 (e)

Article 6 of the current Criminal Code stipulates that Lithuanian nationals and permanently residing stateless persons are liable under the criminal statutes of Lithuania for crimes committed abroad. Therefore, in cases when a Lithuanian national or a stateless person permanently residing in Lithuania commits a crime abroad, there are grounds to request, in accordance with the procedure established in international bilateral and multilateral agreements concluded or acceded by the Republic of Lithuania, that he/she is extradited to Lithuania and brought to trial for the crimes committed. Other persons can be brought to trial under Lithuanian criminal statutes for crimes committed abroad only if the committed act is recognized as a crime and is punishable both under the laws of the place of the commission of the crime and the criminal law of the Republic of Lithuania. At the same time, it must be noted that paragraph 2 of Article 6 of the Criminal Code stipulates that in the case of a person who commits a criminal act abroad being prosecuted under the criminal statutes of Lithuania, it must be established whether there are no differences with regard to punishment under the laws of the two countries. In cases when the laws of one of the countries carry a more lenient punishment, the penalty applied should not exceed that provided for under the more lenient statute. Under paragraph 3 of the above Article, a person who commits a crime abroad is not held criminally liable in Lithuania, if he: 1) has fully served the sentence imposed by the court abroad; 2) has been acquitted or relieved from criminal liability by an effective judgement of a foreign court, or no penalty has been imposed by reason of the statute of limitations or other legal grounds which may be provided for in that foreign country.

Paragraph 2 of Article 6 of the Criminal Code in principle does not prevent the application of universal jurisdiction, whereby all states prosecute found offenders regardless of where the crime was committed. The application of this principle is related to international agreements.

Sub-paragraph 2 (f)

Below is a list of effective international agreements (8) entered into by the Republic of Lithuania. They provide for both mutual legal assistance and extradition:

– Agreement between the Republic of Lithuania and the Republic of Belarus on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania and the Republic of Poland on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania, the Republic of Estonia and the Republic of Latvia on Legal Assistance and Legal Relations;

– Agreement between the Republic of Lithuania and Ukraine on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania and the Republic of Moldova on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania and the Russian Federation on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania and the Republic of Uzbekistan on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania and the Republic of Kazakhstan on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

The Agreement between the Republic of Lithuania and the Peoples Republic of China on Legal Assistance in Civil and Criminal Cases, signed in 2000, (came into force 19 01 2002) regulates the rendering of mutual legal assistance in criminal cases. An Extradition Agreement between the Republic of Lithuania and the Peoples Republic of China was signed on 17 06 2002.

The Agreement between the Republic of Lithuania and the Republic of Azerbaijan on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases, signed in 2001 (the Agreement was ratified by the Seimas of the Republic of Lithuania on 28 05 2002 but has not yet come into force), regulates the rendering of mutual legal assistance in criminal cases and provides for extradition.

The Agreement between the Republic of Lithuania and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters of 1998 (came into force 26 08 1999) regulates the rendering of mutual legal assistance in criminal cases. The Extradition Agreement between the Republic of Lithuania and the Government of the United States of America was signed in 2001. Ratified by the Seimas of the Republic of Lithuania on 22 01 2002, it has not yet come into force but is applied in practice on an agreement between the parties.

The current Code of Criminal Procedure and the new Code of Criminal Procedure (not yet in force) approved on 14 03 2002 set no timeframe within which a request for judicial assistance from competent institutions of foreign countries must be met in Lithuania. In practice judicial assistance requests from foreign courts are implemented in Lithuania within a month on average.

Sub-paragraph 2 (g)

On 30 May 2002, the Seimas of the Republic of Lithuania adopted Decision No IX-911 by which it approved the Program for the Development of the State Border Protection System. The Program pursues the following aims: to ensure the legal regime of the state border and the border zone; to implement the EU integration-related requirements; to ensure a constant readiness to neutralize external risk factors and potential threats on the border which are conditioned by geopolitical environment and which might pose a threat to Lithuania's national security.

Bearing in mind the future membership of the European Union, the land border of the Republic of Lithuania with other EU candidate states is treated as the future internal border of the European Union (henceforth – future internal border). The land border with other states and the sea border are treated as the future external border of the European Union (henceforth – future external border) The priority direction in the development of the state border protection system is strengthening of the protection of the future external border.

It is envisaged to implement in practice the requirements of the Schengen *acquis* vis-à-vis the control of the external borders. This primarily means preventing unauthorized border crossing and ensuring control of the land border with the Republic of Belarus and land and sea border with Russian Federation.

It is envisaged to ensure the most effective use of the acquired (installed) equipment, to intensify the mobile patrols, and enhance the rapid reaction capacity to events on the border. With that regard, it is intended to establish and mark the land border protection zone; to establish the procedure for issuing permits for staying within the state land border protection zone; to build patrol roads along the border; to set up border guard stations in places where most violations are committed; to build barriers; to install surveillance equipment and perimeter alarm systems; to employ mobile thermovisual equipment and air craft. It is also intended to make more use of dogs during the patrols.

A radio wire and computer communications system to ensure effective control is being developed currently.

To ensure a round the clock detection, recognition and surveillance of all the objects in the territorial sea and neighboring waters in all weather conditions, a wider use of the navy and coast surveillance and of the infrastructure of other institutions and economic entities is envisaged.

The existing information system will be enhanced. Modern monitoring, counterfeit document detection and radiation monitoring equipment will be installed. It is also envisaged to introduce technologies that will regulate transport flows at the border crossing points and ensure that check points are not circumvented and that border checks are not evaded in any other way; these measures will guarantee the implementation of international standards with regard to border checks of persons and transport on the state border.

Sub-paragraph 3 (d)

On 14 June this year, the Ministry of Justice, in accordance with the rules of procedure of the Government, submitted to the Government draft legal acts necessary for the ratification of the 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents. On 2 July, 2002, the Ministry of Transport, in accordance with the rules of procedure of the Government, submitted to the Government draft legal acts necessary for the ratification of the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the 1988 Protocol for the Suppression of Unlawful; Acts Against the Safety of Fixed Platforms Located on the Continental Shelf. Since some of the actions referred to in the above Convention and Protocol are not criminalized in the Criminal Code, a draft law on the amendments to the Criminal Code will have to be prepared at the nearest future. It is to be mentioned that by now an authentic translation into Lithuanian of the 1999 International Convention for the

Suppression of Financing of Terrorism is available. Besides, the Ministry of Justice is undertaking a screening of the existing national legislation as to its compliance with the provisions of the said Convention. This analysis will lead to a decision on whether there is a need to introduce changes and amendments to the existing legislation of the Republic of Lithuania. The analysis will also help clarify the issue of the possible timeframe for the ratification of the Convention.

Sub-paragraph 3 (e)

Bilateral agreements on legal assistance, concluded by the Republic of Lithuania, which include provisions on extradition, do not identify concrete extraditable offences. Under these agreements persons are extradited for acts which are regarded as crimes under the laws of both parties and which are punishable by deprivation of liberty for a period of more than one year (6 months in some cases) or by a more severe penalty. Thus, these agreements link the possibility of extradition with the criminalization and punitivity of certain acts by deprivation of liberty under the laws of both states rather than with a specific type of offence. Besides that, taking into consideration the provisions of the bilateral legal assistance agreements mentioned above and the fact that, under the Criminal Code, a terrorist act is punishable by much more severe penalties than deprivation of liberty for a period of one year, a conclusion can be made that the offences set forth in the relevant international conventions and protocols relating to terrorism fall within the scope of application of bilateral legal assistance agreements to which the Republic of Lithuania is a party.

Article 224 of the Code of Criminal Procedure stipulates that in cases when, under international agreements to which the Republic of Lithuania is a party, there are grounds for extradition, a Prosecutor of the Prosecutor General's Office must send a request to that effect to the Vilnius District Court. The judge must hold a hearing with the participation of the person, on which request for extradition has been received, his defense lawyer and the prosecutor within five days after application was submitted. In cases when the judge decides to satisfy the prosecutor's request, he must hand down a ruling to extradite the person in question to the law enforcement institutions of another state, while in the case of refusal to satisfy the request he must hand down a ruling to refuse to extradite the person in question to the law enforcement institutions of another state. The person with relation to whom the ruling has been made, or his defense lawyer or the prosecutor have the right to appeal against the ruling in the Lithuanian Court of Appeal. A judge of the Court of Appeal must hear the appeal within the period of two weeks of its submission. For this purpose, a hearing may be held with the participation of the interested person and his defense lawyer, or only the lawyer. The ruling by the judge of the Court of Appeal is final and conclusive.

Sub-paragraph 3 (f)

Currently, work is ongoing on the new draft law that will integrate the existing Law on the Refugee Status and the Law on the Legal Status of Aliens. The new law is being drafted in compliance with the requirements of EU legislation and international conventions. It will stipulate preventive measures to ensure that individuals do not abuse refugee status. Under the present Law on the Refugee Status, the State Security Department screens the asylum seekers with the view to establishing whether they do not constitute a threat to the security of the state. If it is established that an asylum seeker constitutes a threat to the state, the State Security Department sends the information to that effect to the Migration Department under the Ministry of Interior, so that such a person is not granted asylum and is deported from the country.

Sub-paragraph 3 (g)

Paragraph 2 of Article 222 of the Code of Criminal Procedure stipulates that citizens of the Republic of Lithuania or foreigners may not be extradited if the person is being prosecuted for a crime of political nature. Paragraph 4 of the above Article stipulates, however, that in cases where an international agreement to which the Republic of Lithuania is a party provides for other conditions, grounds and procedure for granting extradition

than the one stipulated in the Code of Criminal Procedure, the provisions of the international agreement will prevail. Thus the Code adheres to one of the universally recognized principles of international law – the precedence of international law over domestic law. Article 3 of the European Convention on Extradition of 1957 stipulates that if the requested Party regards the offence in respect of which extradition is requested as a political offence or as an offence connected with a political offence, it may not extradite the person. The same rule is applied if the requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, o that that person's position may be prejudiced for any of these reasons. Thus, in every concrete case the court should decide whether the offence in question is of political nature, or not, and make an appropriate ruling on the extradition of the person.

It should be noted that paragraph 3 of Article 71 of the new Code of Criminal Procedure approved on 14 of March, 2002 (has not yet come into force) stipulates that a citizen of the Republic of Lithuania or a foreigner may not be extradited (a wording similar to that used in the Convention) if the person is prosecuted for an offence of political nature. This discretionary provision of the Code of Criminal Procedure ("may not be extradited") means that even when the above mentioned grounds for not granting extradition with regard to citizens of the Republic of Lithuania and foreign countries exist, the court, having taken into consideration the circumstances, will be able to hand down a ruling to grant extradition of such persons to a foreign state. Thus the Code leaves wider discretion to the court.

Paragraph 4

The relevant institutions of Lithuania are comprehensively addressing the concerns related to all the phenomena listed in Paragraph 4 and are exchanging information and co-operate in this process.

Other matters

Lithuania provides the organizational charts of its police, migration control, customs, taxation and financial supervision authorities.

The translation of the Lithuanian Government's Resolution No. 820 relative to the implementation of UN Security Council Resolution 1388 (2002) and 1390 (2002) is annexed to this report.